

AMENDED IN SENATE MAY 8, 2012
AMENDED IN SENATE MARCH 28, 2012

SENATE BILL

No. 1134

Introduced by Senator Yee

February 21, 2012

An act to amend Section 43.92 of the Civil Code, relating to liability.

LEGISLATIVE COUNSEL'S DIGEST

SB 1134, as amended, Yee. Persons of unsound mind: psychotherapist duty to protect.

Existing law provides that no monetary liability and no cause of action arises against a psychotherapist, as defined, for failing to warn and protect from a patient's threatened violent behavior except if the patient has communicated to the psychotherapist a serious threat of physical violence against a reasonably identifiable victim or victims. Existing law also specifies that no monetary liability and no cause of action shall arise against a psychotherapist who, under those circumstances, discharges his or her duty to warn and protect by making reasonable efforts to communicate the threat to the victim or victims and to a law enforcement agency.

This bill would revise these provisions by removing any duty to warn. *The bill would also express the intent of the Legislature that this bill changes only the name of the duty described above from a duty to warn and protect to a duty to protect.*

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 43.92 of the Civil Code is amended to read:

43.92. (a) There shall be no monetary liability on the part of, and no cause of action shall arise against, any person who is a psychotherapist as defined in Section 1010 of the Evidence Code in failing to protect from a patient's threatened violent behavior or failing to predict and protect from a patient's violent behavior except if the patient has communicated to the psychotherapist a serious threat of physical violence against a reasonably identifiable victim or victims.

(b) There shall be no monetary liability on the part of, and no cause of action shall arise against, a psychotherapist who, under the limited circumstances specified in subdivision (a), discharges his or her duty to protect by making reasonable efforts to communicate the threat to the victim or victims and to a law enforcement agency.

(c) It is the intent of the Legislature that the amendments made by the act adding this subdivision only change the name of the duty referenced in this section from a duty to warn and protect to a duty to protect. Nothing in this section shall be construed to be a substantive change, and any duty of a psychotherapist shall not be modified as a result of changing the wording in this section.

(d) It is the intent of the Legislature that a court interpret this section, as amended by the act adding this subdivision, in a manner consistent with the interpretation of this section as it read prior to January 1, 2013.